



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
HAROLD NEUMAN)

Appearances:

For Appellant: Bradford E. Henschel

For Respondent: Kendall E. Kinyon
Michael E. Brownell
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Harold Neuman against a proposed assessment of additional personal income tax and penalties in the total amount of \$3,718.45 for the year 1979.

Appeal of Harold Neuman

The sole issue presented by this appeal is whether appellant has established error in respondent's 'proposed assessment of additional personal income tax or in the penalties assessed for the year in issue..

Appellant did not file a California income tax return for 1979. When respondent demanded that he do so, appellant answered by stating that he did not believe he had sufficient income to require him to file. On the basis of information received from the California Employment Development Department, respondent subsequently issued the subject notice of proposed assessment. The proposed assessment includes penalties for failure to file a return, failure to file upon notice and demand, and negligence.

It is well settled that respondent's determinations of tax are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule also applies to the penalties assessed in this case. (Appeal of K. L. Durham, supra; Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969.) No such proof has been presented here.

In support of his position, appellant has advanced a host of familiar contentions, including, inter alia, that he is not a "taxpayer," that Federal Reserve notes do not constitute lawful money or legal tender, and that wages do not constitute income. Each of the "arguments" raised by appellant was rejected as being without merit in the Appeals of Fred R. Dauberger, et al., decided by this board on March 7, 1982. We see no reason to depart from that decision in this appeal.

On the basis of the evidence before us, we can only conclude that respondent correctly computed appellant's tax liability, and that the imposition of penalties was fully justified. Respondent's action in this matter will, therefore, be sustained.

Appeal of Harold Neuman

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Harold Neuman against a proposed assessment of additional personal income tax and **penalties** in the total amount of **\$3,718.45** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this 29th day of June, 1982, by the State Board of Equalization, with Board **Members** Mr. Bennett, Mr. Dronenburg, and Mr. Nevins present.

William M. Bennett, Chairman

Ernest J. Dronenburg, Jr. --, Member

Richard Nevins, Member

_____, Member

_____, Member